

Cummins, Robert

From: Cummins, Robert
Sent: Thursday, April 24, 2008 11:11 AM
To: 'Rosenman, Andrew S.'; Cronin, Thomas
Subject: RE: Welsh

We have an obligation to get the ball rolling---Rule 26 and Judge Gottschall's order require initial disclosures and a scheduling conference. There is no justification for more delay---we will proceed and square the matter away with the judge. In our view, your proposed motion to dismiss is no justification for your failure to cooperate. In the meantime, will you please forward the documents we requested?

From: Rosenman, Andrew S. [mailto:ARosenman@mayerbrown.com]
Sent: Thursday, April 24, 2008 10:53 AM
To: Cummins, Robert; Cronin, Thomas
Subject: Welsh

Bob,

In response to your e-mail requesting a conference to discuss discovery, we see little point in such a conference because Judge Gottschall already gave you permission to begin discovery when we were in court on April 10th. On the same date, the judge said that she certainly will entertain a motion to stay discovery, should we decide to file one. Once you serve formal discovery requests on us, we will evaluate those requests and determine how to respond thereto.

I would be perfectly comfortable reminding the judge of these events in court on May 7th, if we're even required to appear. However, I do not wish to waste my client's time with unnecessary court appearances, and I suspect that the judge does not intend to proceed with the May 7th conference because she has set a full briefing schedule on our motion to dismiss the amended complaint. Thus, I intend to call the judge's court clerk tomorrow morning or sometime next week to inquire whether an appearance on May 7th still is necessary. If you or Tom would like to participate in that call to the judge's court clerk, please let me know your availability either tomorrow morning or else next Wednesday or Thursday.

Andy

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EXHIBIT

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